

oac/B-9088

10 March 1959

MEMORANDUM FOR: Legislative Counsel

SUBJECT : S. 421 (January 17, 1959) and H.R. 4599
(February 17, 1959)

AT 1. As requested by recent note, an analysis of S. 421 follows:

a. Section 1 exempts NSA from the Classification Act of 1949. It would also amend that Act by the addition of the following language: "except that so far as may be practicable no officer or employee whose position would be subject to this Act except for this clause may be paid a salary at a rate in excess of the rate payable under this Act for positions of equivalent difficulty or responsibility;".

b. Section 2 authorizes the Director of NSA to fix the rates of compensation of positions involving research and development functions which require the services of specially qualified scientific or professional personnel, at rates in excess of those authorized by the language quoted above. However, they may not exceed the rates authorized by Section 1581 of Title 10, namely, \$19,000 a year.

c. Section 3 authorizes the Secretary of Defense to prescribe regulations under which employees of NSA may be granted the hardship differentials authorized by Title 5, Section 118(h).

d. Section 4 amends Section 1581(a) of Title 10 by deleting therefrom the authority of the Secretary of Defense to establish fifty scientific and professional positions in NSA for research and development purposes and to compensate those positions at rates up to \$19,000. This is a technical adjustment required by Section 2 of the Bill.

e. Section 5 provides that 5 U.S.C. 654 and any other provision of law that would otherwise require the disclosure of the organization or functions of the National Security Agency, or the names, titles, salaries, or number of the persons employed by it, do not apply to that Agency. This authority parallels a portion of that provided for CIA in old Section 7 of the CIA Act.

2. An analysis of H.R. 4599 follows:

a. Section 1 exempts NSA from the Classification Act of 1949.

b. Section 2 authorizes the Director of NSA to establish such positions and appoint such employees as may be necessary to carry out the functions of the Agency and to fix compensation for such positions "in relation to the rates of basic compensation contained in the" Classification Act of 1949 "for positions subject to such Act which have corresponding levels of duties and responsibilities." Section 2 also authorizes compensation for not more than fifty officers at rates equal to the rates for grades GS-16, 17, and 18.

c. Section 3 amends Section 1581 of Title 10 by deleting therefrom the authority of the Secretary of Defense to establish fifty scientific and professional positions and to compensate those positions at rates up to \$19,000 per year.

d. Section 4 authorizes the Director of NSA to establish fifty scientific and professional positions in NSA for research and development purposes and to compensate at rates up to \$19,000 per year.

e. Section 5 is identical in substance with Section 3 of the Senate Bill.

f. Section 6(b) provides that Section 1582 of Title 10, which requires the Secretary of Defense to report to Congress concerning the scientific positions established and appointments made by him under Section 1581 and authorizes him to make such reports in executive session of Congressional committees if he feels a full public report would be detrimental to national security, also applies with respect to the research and development positions established, and appointments made, under Section 4 of the Bill. Section 6(a) provides that

except as provided in Section 6(b), neither this Bill nor any other law, including specifically 5 U.S.C. 654, shall be construed to require the disclosure of the organization or any function of the National Security Agency, of any information with respect to the activities thereof, or of the names, titles, salaries, or number of the persons employed by such agency.

g. Section 7 provides that the number of GS-16, 17 and 18's authorized by 5 U.S.C. 1105(b) shall be reduced by the number of positions allocated to NSA "immediately prior to effective date of this Act." Section 1105(b) is the authority of the Civil Service to establish super grades.

h. Section 8 establishes an effective date for the first seven sections.

3. As may be noted from the above:

a. Section 1 of S. 421 parallels Section 1 and the first three sentences of Section 2 of the House Bill.
(Note: The authority of the Director of NSA in sentence one of Section 2 of the House Bill to appoint such officers and employees as may be necessary to carry out the functions of the Agency is not included in the Senate Bill.)

b. Section 2 of S. 421 parallels Section 4 of the House Bill. The House Bill permits only fifty scientific positions; the Senate Bill imposes no such limit.

c. Section 3 of S. 421 and Section 5 of the House Bill are identical in substance.

d. Section 4 of S. 421 and Section 3 of the House Bill are identical.

e. Section 5 of S. 421 and Section 6(a) of the House Bill are similar.

f. Sections 6(b), 7 (and the last sentence of Section 2) and 8 of the House Bill are not included in the Senate Bill.

4. I believe the Agency has no direct interest in the Bills. The exemption of NSA from the Classification Act of 1949, and the

protection against non-disclosure parallel existing law applicable to CIA. The proposed Bills should pose no threat to the CIA authorities. In previous years this Office has recommended support of NSA legislation of an administrative nature and we could support these also.


Assistant General Counsel

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